

Finding of Emergency

The Education Audit Appeals Panel (EAAP) has statutory authority to use the emergency regulations process to meet the deadlines specified for the adoption of an annual audit guide by July 1 of the fiscal year to be audited (and any supplement, as authorized, before March 1 of the audit year). (Educ. Code § 14502.1(b).)

Specific Facts Showing the Need for Immediate Action

Education Code Section 41020 requires the governing board of every local education agency (LEA) that serves kindergarten or any of grades 1 through 12 (K-12) to provide for an annual audit of the agency's books and accounts. Section 41020 further requires that the audit be developed and reported using a format established by the Controller after consultation with the Superintendent of Public Instruction and Director of Finance. Education Code Section 14502.1 requires the Controller, in consultation with the Department of Finance and the State Department of Education as well as representatives of specified organizations, to propose the content of an audit guide to promote accountability for public educational funds.

Education Code Section 14502.1 requires the Controller to submit the audit guide to EAAP for review and possible amendment. EAAP is then to adopt the audit guide pursuant to the rulemaking procedures of the Administrative Procedure Act (APA) by July 1 of the fiscal year to be audited. (EAAP is also authorized to adopt, before March 1 of the audit year, a supplemental audit guide to address legislative changes in the conditions of apportionment of school funding.)

To meet the statutory timelines and ensure the accuracy of the audit guide, Section 14502.1 authorizes use of the emergency regulations procedures of the APA to adopt the guide as regulations. Meeting the timelines in Section 14502.1 through use of the emergency regulations procedures affords notice to K-12 LEAs of the areas of their operations that will be subjected to particular scrutiny, at the beginning of the fiscal year that will subsequently be scrutinized through the audit process. Further, meeting the timelines enables accounting firms to prepare training materials and provide training to their field auditors prior to the commencement of auditing.

Authority and Reference

Authority cited: Section 14502.1, Education Code.

Reference: sections 8482.3, 14501, 14502.1, 14503, and 41020, Education Code.

Informative Digest

EAAP proposes to amend sections 19816, 19816.1, 19828.2, 19837.1, and 19846, and to adopt sections 19828.3, and 19837.2 in Title 5 of the California Code of Regulations, Division 1.5, Chapter 3.

The purpose of these regulations is to provide definitions of terms and specification of procedures to guide accountants in the conduct of statutorily required financial and compliance audits of local education agencies. The Controller proposed amendments to the audit guide, beginning with fiscal year 2008-09, of audit procedures related to instructional materials, and the deletion of the procedures related to kindergarten continuance, state school construction funds, excess sick leave, notification of right to elect CalSTRS membership, Proposition 20 lottery funds, state lottery funds, and California School Age Families Education. Conforming changes have been made in sections 19816, 19816.1, and 19837.1 and successor section 19837.2. Nonsubstantive amendments are being made to Section 19846, the After School Education and Safety Program.

Title 5, Division 1.5
Chapter 3. Audits of California K - 12 Local Education Agencies
Article 2 Audit Reports

§ 19816. Definitions.

A new subparagraph (6) is added to subdivision (f) to specify the numbers of audit procedures proposed for inclusion in the audit guide for fiscal year 2008-09.

§ 19816.1. Applicability of Audit Procedures by Audit Year.

This section specifies which sections of the audit guide are applicable to each audit year. The sections that are applicable to audits of fiscal year 2008-09 are listed in new subparagraph (a)(6) for Article 3, new subparagraph (b)(6) for Article 3.1, and new subparagraph (c)(4) for Article 4.

Subparagraph (a)(5), which specifies the sections of Article 3 that are applicable to audits of fiscal year 2007-08, is corrected by replacing the reference to Section 19834 with Section 19833.5, which was inadvertently omitted. When the regulations were amended for the 2007-08 fiscal year, Section 19833 was omitted, but not Section 19833.5

At the request of the Controller, the following sections are omitted from new subparagraph (a)(6) for audits of fiscal year 2008-09: 19818. Kindergarten Continuance, 19832. State School Construction Funds, 19833.5. Excess Sick Leave, 19833.6. Notification of Right to Elect California State Teachers Retirement System (CalSTRS) Membership, 19834. Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 19835. State Lottery Funds (California State Lottery Act of 1984), 19836. California School Age Families Education (Cal-SAFE) Program.

**Article 3. State Compliance Requirements: Local Education Agencies
Other Than Charter Schools.**

§ 19828.2. Instructional Materials

This section has been amended to modify the introductory sentence to indicate its applicability only to fiscal year 2007-08. Subparagraph (b)(1) is amended to delete the unnecessary reference to fiscal year 2005-06. Subparagraph (e)(6) is amended to clarify that it is the expenditures that must be in one of the six following categories, not the textbooks or materials.

The following changes are made for style consistency in the audit guide: In subparagraph (c), the word ‘audit’ is inserted before “procedures,” and the reference to “subdivision (b) of this section” is changed to ‘subparagraph.’ In subparagraph (d), the word ‘audit’ is inserted before “procedures.” In subparagraph (e)(6)(F), the manner of referencing a subdivision of an Education Code section is changed from “Section 60242(d)” to “subdivision (d) of Education Code Section 60242.”

§ 19828.3. Instructional Materials.

This successor section will apply to audits of fiscal year 2008-09 and each fiscal year thereafter. Subparagraph (e)(5) now directs auditors to scrutinize more closely the certification made pursuant to Education Code Section 60422.

§ 19837. 1 School Accountability Report Card

This section has been amended to modify the introductory sentence to indicate its applicability only to fiscal year 2007-08.

§ 19837.2. School Accountability Report Card.

This successor section will apply to audits of fiscal year 2008-09 and each fiscal year thereafter. Subparagraph (c) is amended to change the cross references made to Section 19828.2 to the successor regulation, Section 19828.3.

Article 3.1. State Compliance Requirements: School Districts and Charter Schools.

§ 19846. After School Education and Safety Program.

In subparagraphs (a)(2) and (b)(2), reference to reporting in ‘quarters’ is removed from the first sentence because the program statutes call for reporting attendance semi-annually (Educ. Code §§ 8483.7(a)(1(A) and 8483.75(a)(1(A)). Associated clarifying changes are made to the sentence.

In subparagraph (a)(5), the reference to “subdivision (a)(3)” is changed to “subparagraph (a)(3) of this section” for style consistency in the audit guide.

Technical, Theoretical, or Empirical Studies, Reports, or Documents.

EAAP did not rely on any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of these regulations.

Reasonable Alternatives to the Regulations and the Agency’s Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by EAAP.

Reasonable Alternatives to the Regulatory Action that Would Lessen Any Adverse Impact on Any Business.

These regulations are applicable only to certified public accountants and public accountants who audit LEAs, and indirectly to the LEAs themselves. As no adverse impact on small business has been identified, there is no need to examine reasonable alternatives.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business.

EAAP has determined that adoption of the proposed regulations would not have a significant impact on any business in the State of California. The regulations direct accountants to conduct the steps required for audit of state-funded education programs and Education Code Section 14503 requires the use this audit guide in the performance of audits of LEAs, and provides that, if auditors do not follow the prescribed procedures, they are to state in their audit reports what other procedures were followed.

Mandate on Local Agencies or School Districts

EAAP has determined that these regulations do not impose a mandate on local education agencies. No reimbursement is required.

Cost Estimate

EAAP has also determined that the regulations will involve no costs or savings to any State agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Section 17561 of the Government Code, and no costs or savings in federal funding to the State.